The Cochin Kuri Subscribers' Relief Bill

Mr. M. K. Devassy *(Adur):* Sir, I rise to move for the introduction of the *Kuri* Subscribers' Relief Bill. I do not think it necessary to make a lengthy speech on this motion. Already this House has considered a Bill introduced by the Government incorporating the clauses of the Proclamation of His Highness the Maharaja. The purpose of that Proclamation was to permit the prolongation of the period of the termination of a *kuri* by the consent of a certain number of the subscribers. This Proclamation is the result of a recommendation of the Antony Committee. The Committee found on enquiry that there is considerable difficulty due to economic depression for the *kuri* subscribers to subscribe for the *kuri* to which they have committed themselves. As a solution to this problem the Committee recommended that the annual instalment of the *kuries* may be halved and the period thereafter may be doubled. To maintain the *status quo* the Committee recommended that when one instalment is deleted and the period prolonged for that deleted period a certain percentage of interest may be collected from the prized subscribers and distributed among the non-prized subscribers. This suggestion of the Committee when considered by the Government underwent a serious change. The change was that whenever it was necessary to prolong the period of the *kuri*, there must be a majority of 51 per cent of the non-prized subscribers and 75 per cent of the total number of subscribers. The result was that ever since this Proclamation came into force, though as a matter of fact people were in need of prolongation, it was not possible in many cases, firstly because of the necessity on the part of the non-prized subscribers to bid the tickets, and secondly for want of people to go about and canvass for them. The result was that from 1111 to 1114 out of 911 *kuries* in the State only 63 *kuries* have been suspended and the period of termination of 31 *kuries* have been prolonged. My purpose in introducing this Bill is to give a temporary relief to the *kuri* subscribers by an unconditional halving of the number of annual instalments of the *kuries* without changing the *status quo* compelling the prized subscribers to pay a certain percentage of interest and by distributing it among the non-prized subscribers. This will be a real relief measure to a vast majority of the people of the Cochin State. There are one or two circumstances which I would like to explain in this connection. One is that a *Kuri* Committee has been appointed by the Government to consider the necessary amendments to the *Kuries* Act. It might be asked whether that matter cannot be placed for the consideration of that Committee, since I happen to be a member of that Committee. I had occasion to represent this matter to the Diwan and what he suggested then was that he has

LIBRARY ARCHIVES Kerala Legislative Assembly

appointed a Committee and all these Bills may be considered by the Committee. Accordingly, I placed the matter before the Committee and the Committee advanced a very sensible argument that this is only a temporary measure and a temporary measure cannot have place in a permanent measure, and since the purpose of the Committee is to amend a permanent piece of legislation it has no right to consider this temporary measure and it will be senseless to incorporate the provisions of this Bill in that piece of legislation. I thought that it was a perfectly sound argument and to safeguard my position I requested the Chairman to record my statements. Therefore, I am compelled to place this Bill for the consideration of this House. I therefore request that the House may be pleased to allow this Bill to be introduced.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* I second it.

Mr. V. J. Mathai *(Planters):* Mr. President, Sir, I rise to oppose the Bill. In the first place, I think the Bill will not do any good either to the starters of *kuries* or to the subscribers and secondly the legislation is partial. At the same time I feel it is a very important matter on which the whole attention of the House ought to be bestowed as I shall show by examining the principal provisions of the Bill. In the first place section 2 says: "Nothing contained in this Act shall apply to *kuries*, the instalments of which fall either once in every month or once in a year". Therefore section 2 tries to take away from the mischief or the benefit of the Bill all monthly *kuries* and all yearly *kuries*. So I say it is a partial legislation. What really actuated the mover to delete monthly *kuries* entirely and all yearly *kuries*, I do not understand. As far as I know most of the *kuries* in the State are conducted by the Trichur people and almost all of them are monthly *kuries* or annual *kuries*. I do not know whether the Hon'ble Mover wants to help the Trichur people in this matter. If there is no such idea, it passes my understanding why these should be excluded. It applies only to *kuries* which are half-yearly or quarterly or bi-monthly. Why exactly those *kuries* alone should be affected is really beyond my comprehension. Therefore, I say it is a partial piece of legislation. Do not the arguments advanced by the Hon'ble Mover apply in the case of monthly *kuries*? We are all familiar with such *kuries*, and usually they are for a period of 10 years. Yearly *kuries* are mostly beyond 10 years, whereas half-yearly *kuries* may be below that. I do not think that this is a salutary principle to enact legislation which only touches the fringe of a question. In the second place, we shall see what mischief this Bill will do. It proposes to delete alternate instalments and to extend the period of duration of *kuries*. That is to say, in the case of half-yearly *kuries* there will be only

LIBRARY ARCHIVES Kerala Legislative Assembly

one instalment in a year and in the case of bi-monthly *kuries* it will be conducted once in four months. The mischief lies here. If there is a half-yearly *kuri* the period of which is fixed at 15 years that *kuri* will have to be conducted for 30 years. I suppose the House will realise the implication of that. *Kuries* are often conducted by private individuals. Suppose a starter of a *kuri* is 60 years old and the *kuri* has run for 5 years. The *kuri* will go on for another 25 years and we do not know what will happen in such a case. He may be all right, but his son may be a drunkard or a waster and the subscribers will suffer by prolonging the *kuri*. Therefore, is this Bill in the interests of the starters or the subscribers ?

Mr. M. K. Devassy *(Adur)*: Is there any law limiting the age of a starter of a *kuri* ?

Mr. V. J. Mathai *(Planters)*: Suppose a man is 75 years old. My friend says there is no limit for a man's age. That exactly is my argument. He may die tomorrow. The argument suits me. Suppose a 65 year old man starts a *kuri* which has run only for three years and which will normally be terminated when he would be 75 years. According to this Bill this may have to be carried on to his 90th year. Is it good for the starter or the subscriber? The non-prized subscriber will have to wait for a longer period to get his money. That is a great mischief. We will take the case of a prized subscriber. Under clause 4, the whole scheme will be this: The prized subscriber will find it difficult to terminate his obligation. He would like to get rid of the obligation some how or other. He might be unable to pay it, if it is prolonged. A person who is 53 years and is going to retire after the 55th year will find it impossible to pay for his *kuri* after retirement. That means you are extending the period of time to a future, when the prized subscriber will be unable to make the payment. He has already made his budgetary calculation which will be upset. From the point of view of the non-prized subscriber he might have joined a *kuri* to get money to send away his daughter or pay off some debts and to clear his properties from encumbrances. In such a case the whole difficulty arises, because this Bill says you cannot get your money, you will have to wait for double the period. In the case of a private individual starter, what I stated before applies. There is no knowing, what will be the financial stability of a starter after a longer period than was originally contemplated. These are some of the mischievous aspects of the Bill.

There is another question as to exactly how the prized subscribers will be benefitted by this. Certain calculations are made before they bid the *kuri*. Will those calculations apply here ? Some people would have calculated at the rate of 3 per cent interest before

LIBRARY ARCHIVES Kerala Legislative Assembly

bidding. Here one portion of the Bill says that the prized subscriber shall pay interest at the rate of 9 per cent. It is hazardous and grievous for that man to pay so high a rate of interest. He might have calculated for 3 per cent or some other person might have made another calculation at 6 per cent. It will upset a man's budgetary position. In such cases it will be entailing a grievous loss on the subscribers. Finally, we are now finding signs of a change in the prices of commodities. Every commodity is fetching a high price and every economist worth the name says that bad times are in store for us probably after the war. You may possibly get lower prices. Is it wise at this stage to prolong our obligations for a bad period? For these reasons, I oppose this Bill.

*Mr. P. Govinda Menon *(Mulakunnathukavu):* I can see only one good point in this Bill and that is the noble motive with which the Bill has been tabled. From every other standpoint very serious and very far-reaching consequences will follow if this Bill becomes law. A *kuri* is not an ordinary transaction between a debtor and a creditor. When you tamper with the *kuri* law it is not like tampering with interest; it is not like tampering with ordinary contracts. It is a matter in which several people are involved and several groups of people are involved. It is a matter which should be considered from the point of view of the non-prized subscriber and the stake-holder. My friend Mr. Devassy had only the interests of the prized subscribers when he introduced this Bill. The prized subscriber is relieved and he has to pay only three or four instalments according to the terms of the *kuri* security bond. If the Bill becomes law he will be given some relief, because the period in which he has to pay the instalments will be doubled. That is certainly a relief, and I do not quarrel with the prized subscribers if they get that relief without affecting seriously the interests of the other persons involved in the *kuri*. Now take the case of the non-prized subscriber. When a non-prized subscriber joins the *kuri* the most important thing that he takes into consideration is the duration of the *kuri*. Is it a *kuri* which will run for 5 years or is it a *kuri* which will run for 15 years? I have heard several people remarking that it is a very long term *kuri*. *Kuries* whose duration is fifteen or twenty years are not uncommon. Suppose a man has joined a *kuri* on the understanding that it will end in 10 years. The effect of this Bill will be that the duration of the *kuri* becomes 20 years. It upsets the whole scheme. Another question which the non-prized subscriber will have in view is the solvency of the stake-holder. My friend Mr. Mathai has referred to private stake-holders. What about Banks? Can you say what the situation of a Bank will be 30 years hence? If the Bank is going to

*Speech not corrected by the hon'ble member.

LIBRARY ARCHIVES Kerala Legislative Assembly

collapse, you are helpless and the non-prized subscriber also is helpless. It is for that purpose that the Royal Proclamation stated that 75 per cent of the total number of subscribers should consent before a *kuri* scheme is altered. When Mr. Devassy pointed out the few number of *kuries* that have been wound up under the terms of the Proclamation, it discloses to the House the relevancy of this provision. It has been rightly held by the High Court that the relationship of a *kuri* subscriber and starter is governed by contract and there is no fiduciary relationship. If a stake-holder is going to insolvency the non-prized subscribers have no relief and the original terms of the *vaimpu* have to be observed. He cannot appoint a receiver to the *kuri*. That has been laid down in 25 Cochin. He cannot terminate the *kuri*. He cannot say that the stake-holder is going to ruin. Therefore, the non-prized subscriber is in a precarious condition, and if he goes to ruin on account of his miscalculation, he has to thank himself. But if it is on account of doubling the period, I certainly think that in the interests of the people we should not be a party to that game. Then take the case of the stake-holder himself. Conducting a *kuri* is not a joke. Now the result of the Bill would be to prolong the agony of the stake-holder also for several years. If the *kuri* was run to for 20 years the result of this Bill will be to prolong it for 40 years. Therefore, I submit to this House that apart from the motive underlying the Bill to give relief to the *kuri* debtors, the serious consequences that will follow to the non-prized subscriber should be considered. It is a matter with which we should not play. I am not pleading sanctity of contract that indebted people should not be relieved, but I am only saying that several people will be losing money and will be helpless. Recently our High Court had to consider some of these questions. Suppose a stake-holder assigns his rights and there are several non-prized subscribers. He assigns both the bonds reserving the debt due to a few of the non-prized subscribers. The question was how could all the other subscribers be relieved. The Court held that each subscriber and the stake-holder is bound by a separate contract. Therefore, I submit to this House that it is not a matter with which we can play. It will lead to evil consequence.

Mr. V. J. Mathai *(Planters):* What about defaulting non-prized subscribers?

Mr. P. Govinda Menon *(Mulakunnathukavu):* In the case of a non-prized subscriber who has committed default he will get the money actually subscribed when the *Kuri* terminates. The result according to this Bill will be that you have to wait another term of years without getting interest and getting only the actual amount

LIBRARY ARCHIVES Kerala Legislative Assembly

and that itself is doubtful because the solvency of the stake-holder will be an uncertain quantity in the whole equation. Therefore while sympathising with the mover in his extreme anxiety to relieve the indebtedness of the *kuri* debtors, I think a provision of law which says that without the consent of the stake-holder and without the consent of a fraction of the non-prized subscribers and without an equal benefit to the non-prized subscribers the Bill should not be placed on the statute book. It prolongs the agony of these people, by doubling the original period. I cannot but oppose this Bill.

Mr. C. A. Kunjunni Raja *(Advocate-General):* The Government have to oppose this Bill. This Bill is sought to be justified on the ground of economic depression. It is stated that since the prized subscribers are not in a position to subscribe the amounts, the instalments of *kuries* may be doubled. That is the operative portion of the Bill. That this reason cannot stand scrutiny will be evident from section 2 of the Bill itself. Section 2 provides that "Nothing contained in this Act shall apply to *kuries* the instalments of which fall either in every month or once in a year". Since *kuries* which fall every month are excluded, those people who have to pay 12 instalments in a year do not want any relief and in the case of those falling once in a year, it is provided that they also do not want any relief. For 12 payments in a year they do not want any relief and also if it is only one. According to the Bill if it is only in between 12 and 1 the relief is necessary. Is there any justification on account of economic depression for that? If a man can pay 12 instalments in a year without any relief why should there be any relief for him if the instalments is below 12 and above one? There is absolutely no justification. Further most of the *kuries* in the State will be monthly or annual *kuries*. There may be a few with three or four instalments, but such *kuries* are very rare. That is the report of the Superintendent of Registration also. He has made enquiries and he says that these *kuries* which are not monthly or annual are very rare. The Bill cannot be justified on the ground of the economic depression. Then it is stated that the Antony Committee has recommended. Unfortunately, I was not able to get a copy of the Report. This is what the Registrar says in hi Report.—

"I do not find that the Antony Committee has made any such recommendation. On the other hand the Committee was decidedly opposed to direct action by Government. They were, however, in favour of reducing the number of instalments so as to lighten the burden of the subscribers. But even in this respect they have only advocated action by a majority of the subscribers. The committee's report was on the basis of the weight of evidences collected

LIBRARY ARCHIVES Kerala Legislative Assembly

by them. In view of that it does not appear that direct action as is contemplated in the Bill is necessary."

In view of this recommendation of the Committee a Proclamation was issued by the Government in 1111 and it is useful that the material portion of that Proclamation is brought to the notice of the House. Clause I (*a*) says: "The starter or starters of a *kuri* and the subscribers therein may, by a resolution, alter the articles in a *kuri vaimpu* so as to suspend the conduct of the *kuri* for the time being, or to prolong the period of life of the *kuri* by extending the interval between the instalments in the *kuri*. (*b*) The resolution shall be one which is passed at a meeting, convened for the purpose, of the general body of the subscribers by a majority of 75 per cent of the full votes. Such majority shall consist of not less than 51 per cent in value of the non-prized subscribers." So the Government gave every opportunity to the subscribers and the starter to come to a common understanding with regard to the conduct of a *kuri* by means of this Proclamation. An inroad was made into the contractual relations and that gives sufficient scope for the view of the majority. Moreover, this Bill does not take into account the interest of the non-prized subscribers. It is only in the interests of the prized subscriber. I am sure on a reading of the Bill the House will agree with me in this. It is the duty of the House to protect the interests of the non-prized subscribers also. There is absolutely no reference anywhere in the Bill to the non-prized subscribers. The Preamble says: "Whereas it is expedient to provide for the relief of the subscribers of the *Kuries* in the State...." But the provisions will show that the only relief is with regard to the prized subscribers. This is a partial piece of legislation as was pointed out by the Hon'ble Member for Planters. Then see the provision with regard to the rate of interest. It is said that the prized subscriber has to pay 9 per cent. If, on payment of 9 per cent interest, they can get money as it is easy to do, what is the harm in closing this transaction by borrowing and payment. Why should this *kuri* be unnecessarily prolonged? There is also no justification to support this Bill on that ground also. Some figures were pointed out to this House. There were only 31 *Kuries* the life of which was prolonged in pursuance of the Proclamation. Perhaps there may be only these that required relief. What is the harm in getting 75 per cent of the total votes and the votes of 51 per cent of the non-prized subscribers in coming to a proper decision? It is the interest of the non-prized subscribers that has to be considered more by this House. Moreover there is a Committee constituted by the Government to go into the question of the *Kuri* Law, and after getting their report, the matter may be

LIBRARY ARCHIVES Kerala Legislative Assembly

considered. The House will be encroaching too much upon contractual relations. I therefore oppose this Bill.

Mr. M. K. Devassy *(Adur):* Sir, I wish to meet the arguments placed before this House by those hon'ble members who opposed the Bill. I am very thankful to Mr. Mathai for the motive of partiality to Trichur so strongly attributed to me in excluding from the purview of this Bill the monthly and annual *kuries*. I suppose that when my hon'ble friend knows that the members of the Antony Committee also agreed with my view for weighty reasons, I hope that, that charge of partiality will be removed. "We have recommended to exempt the monthly *kuries* for special reasons. In these *kuries* subscriptions have to be paid and tickets are drawn every month. Agriculturists very rarely, if at all, join them, because they would not be able to make payments monthly out of their income. Those who take tickets in these *kuries* are men who have more or less fixed monthly income such as officers, lawyers, doctors, merchants, etc., and even of this class many come from places outside the State—such as Madras, Bombay and Ceylon. They are not seriously affected by the depression and the consensus of opinions of the witnesses examined at Trichur where most of the *kuries* of this nature exist were that this kind of *kuries* need not be disturbed. Hence our recommendation to exempt them". These were the reasons stated by the Antony Committee to exempt the monthly *kuries* from the operation of the Bill and I also think that those reasons are perfectly weighty and it is unnecessary to include monthly *kuries* within the scope of this Bill. But if the House thinks that relief should be given to subscribers in monthly *kuries* also, I am always prepared to accept any amendment to that effect and I am prepared to stand by the subscribers for relief. I shall be ever prepared to accept any amendment if my friend will move one, which I doubt. Another argument was that the period of the *kuri* will be prolonged which will be beyond the life of the foreman. He was stating that a foreman who is now 70, if compelled to extend the period of 20 years to 40 years it is very difficult to expect him to live for 40 years more. I interrupted him by asking whether there is any law limiting the age of a starter of a *kuri*. My question had a meaning. If a man starts a *kuri* and is aged 98 no law can prevent him from starting a *kuri*.

Mr. P. Govinda Menon *(Mulakunnathukavu):* Nobody will join.

Mr. M. K. Devassy *(Adur):* That is a different question. The question of age has absolutely no relevancy at all. Further, I pointed out that already a Proclamation has come to the rescue of

LIBRARY ARCHIVES Kerala Legislative Assembly

the subscribers and *kuries* are being stopped. Suppose the subscribers agree and the foreman disagrees. Still the Proclamation will require the *kuri* to be prolonged. So that the difficulties of the foremen are not taken into consideration even according to the Proclamation itself. The arguments advanced are not convincing enough. The arguments, put forward by my stout friend Mr. Govinda Menon, by stout I mean in his argumentative capacity, I shall also answer. I thank my friend for the generosity with which he attributed very good motives to me, and I am very grateful for his sympathy. But I wish to say that I fail to agree with the arguments advanced by him. My friend was saying that *kuries* have to be viewed in a different sense from our Debt Relief Bill and other Bills because it is not a matter of contract alone. He was also remarking that so far as *kuries* are concerned the non-prized subscribers should have the safety with regard to the money they have subscribed. My submission before this House is that the *kuri* Act as it now stands has provided for sufficient safeguards for the security of the money in the hands of the foreman. There are several sections which say that when a *kuri* is started the foreman has to furnish security for twice the amount, and until the instalment has been won, and if that amount has not been paid, that amount should be deposited in the scheduled banks or securities and there are other sections also which require that the foreman should be in a position to deposit and satisfy the Government authorities that the monies received are kept safe for payment to the subscribers.

Mr. P. Govinda Menon *(Mulakunnathukavu):* These sections apply only to *kuries* started after the *Kuries* Act.

Mr. M. K. Devassy *(Adur):* My hon'ble friend's statement is absolutely incorrect. It is very difficult to say that they apply to *kuries* started after the Act. I know there are foremen who read those sections with particular motives and who do not attach so much weight to the sections as they deserve. That is one of the reasons why the Government has taken into its head to pass stringent orders. There are all possible safeguards provided now in the present *Kuries* Act for the safety of the monies that have gone into the hands of the foreman. Then, the question is what prevents the House from agreeing to a measure that will give relief to a large number of people of our State? I can understand if it adversely affects anybody concerned. I can understand if it adversely affects the foreman, the prized subscriber or the non-prized subscriber. I may submit before the House that this Bill is not exclusively for the benefit of the prized subscribers.

Mr. K. Kochukunhan Kaimal *(Vadakkancheri):* What is the security against defaulting prized subscribers?

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. K. Devassy *(Adur):* Is there any safety now? That will continue to exist. These things are more exaggerated and they have absolutely no place in a consideration of the Bill. I therefore recommend this Bill to be accepted.

Mr. V. J. Mathai *(Planters):* Will the Hon'ble Law Member enlighten the House as to the effect of this Bill upon documents executed in British India? I think it is very dangerous? You cannot enforce this in British India.

Mr. C. A. Kunjunni Raja *(Advocate-General):* You are right.

Motion put and negatived

Mr. M. K. Devassy *(Adur):* A poll Sir.

Ayes		*Noes*	
Messrs. (1)	C. V. Iyyu.	1.	Dr. A. R. Menon.
(2)	V. K. Bhaskara Menon	2.	Mr. K. P. Kannan Nayar
(3)	T. V. Subramania Ayyar.	3.	Mr. K. Achyuta Menon.
(4)	M. K. Devassy.	4.	Mr. P. J. George.
(5)	K. R. Viswambharan.	5.	Mr. C. A. Kunjunni Raja.
(6)	A. Eachara Menon.	6.	Dr. T. Verghese.
(7)	P. Achyuta Menon.	7.	Rao Bahadur M. Narayana Menon.
(8)	V. K. Krishnankutty.	8.	Mr. K. V. Menon.
(9)	M. L. Joseph.	9.	Mr. M. Raman Menon.
		10.	Mr. V. K. Aravindaksha Menon.
		11.	Rao Sahib I. N. Menon.
		12.	Rama Varmha Tampuran.
		13.	Mr. T. K. Nayar.
		14.	Mr. M. Sivarama Menon.
		15.	Mr. K. R. Ramakrishnan.
		16.	Mr. A. B. Salem.
		17.	Mr. V. J. Mathai.
		18.	Mr. L. M. Pylee.
		19.	Mr. A. V. Moothedan.
		20.	Mr. M. Govinda Pai.
		21.	Mr. C. R. Iyyunni.
		22.	Mr. E. Ikkanda Warriar.
		23.	Mr. Ismal Hajee Essa Sait.
		24.	Mr. Popatlal Goverdhan Lalan.
		25.	Mr. T. A. Ramachandra Ayyar.
		26.	Mr. P. Govinda Menon.
		27.	Mr. K. Kochukunhan Kaimal.
		28.	Mr. P. K. Madhava Menon.
		29.	Mr. C. Kunjan Nambudiripad.
		30.	Mr. A P. Menon.
		31.	Mr. C. J. Luiz.
		32.	Mr. N. V. Subbarayan Chettiyar.
		33.	Mr. K. P. Vallon.
		34.	Mr. V. K. Kutty.

9 for and 34 against

The House rose for the day at 5-15 p.m.

C. J. MATHEW
Secretary to the Council

LIBRARY ARCHIVES Kerala Legislative Assembly